

Assembly Bill No. 1045

Passed the Assembly August 31, 2002

Chief Clerk of the Assembly

Passed the Senate August 27, 2002

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2002, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to repeal and add Section 853 of, and to add Sections 854 and 855 to, the Business and Professions Code, relating to healing arts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1045, Firebaugh. Healing arts: practice.

Existing law provides for a Task Force on Culturally and Linguistically Competent Physicians and Dentists in the Department of Consumer Affairs. Pursuant to existing law there is a subcommittee within the task force to examine the feasibility of a pilot program allowing Mexican and Caribbean licensed physicians and dentists to practice in nonprofit community health centers in medically underserved areas. Existing law requires the subcommittee to report to the task force by March 1, 2001, and requires the report to be forwarded to the Legislature by April 1, 2001, with any additional comments.

This bill would delete the provisions for the subcommittee.

The bill would create the Licensed Physicians and Dentists from Mexico Pilot Program. The bill would set forth the program's provisions related to eligibility, licensing, location, and hiring. The bill would also provide for an evaluation of the program, and for funding of administrative and evaluation costs by philanthropic entities. The bill would authorize a 3-year nonrenewable license for physician participants and a 3-year nonrenewable dental permit for participating dentists and would prohibit these medical licenses and dental permits from being used as the standard for issuing a license to practice medicine or dentistry in this state on a permanent basis.

The bill would additionally specify certain requirements international medical graduates are required to meet to participate in a separate pilot program and to receive an applicant status letter. The bill would provide the Medical Board of California the authority to issue a license to practice medicine to an international medical graduate participating in the program if specified criteria are met.

The bill would require the Medical Board of California and the Dental Board of California, in consultation with other entities, to



provide oversight of these programs. The bill would require the Medical Board of California to report to the Legislature every January regarding the physicians program and the international medical graduate program. The bill would also require the Dental Board of California to report to the Legislature every January regarding the dental program.

The bill would provide that these programs shall only be implemented if the necessary amount of nonstate funding is obtained.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

The 2000 United States Census determined the population of California to be over 35 million people with approximately 11 million being Latino.

From July 1990 to July 1999, California's population increased by approximately 4 million people. Approximately 61 percent of this growth can be attributed to the growth in the Latino population. The Latino population has increased at an average rate of 275,000 persons per year from 1990 to 1999. The Latino population is estimated to have grown in virtually all counties over this period.

The United States General Accounting Office reports that the United States Community Health Centers patients are comprised of 65 percent ethnic and racial minorities.

Title VI of the Civil Rights Act of 1964 requires any federally funded health facility to ensure persons with limited English proficiency may meaningfully access health care services. Persons with limited English proficiency are often excluded from programs, experience delays or denials of services, or receive care and services based on inaccurate or incomplete information.

The Health Resources and Services Administration reports the number of physicians in California grew 17 percent between 1989 and 1998.

The Health Resources and Services Administration found in 1998 that only 4 percent of active patient care physicians were Latino.



The Association of American Medical Colleges in 1998 found only 6.8 percent of all graduates from United States medical schools were of an ethnic or racial minority group.

In 1999 only 11 percent of dentists in California were a member of a racial or ethnic minority group with 5 percent being classified as Asian or Pacific Islanders.

In 1996 only 4 percent of dentists in California were Latino.

According to the Institute of Medicine report requested by the United States Congress, research evidence suggests that provider-patient communication is directly linked to patient satisfaction, adherence, and subsequently health outcomes. Thus, when sociocultural differences between the patient and the provider are not appreciated, explored, understood, or communicated in the medical encounter, the result is patient dissatisfaction, poor adherence, poorer health outcomes, and racial and ethnic disparities in health care.

A Commonwealth Fund of New York study found that: (1) one-third of Latinos said they had problems communicating with their doctors with barriers to this poor communication including language, cultural traditions, and sensitivity; (2) communication is essential to quality health care; and (3) inadequate communication can lead to the perception of inhumane health care service delivery.

The Summit on Immigration Needs & Contributions of the Bridging Borders in the Silicon Valley Project found that approximately 50 percent of participants reported that having a provider that speaks his or her language will improve the quality of health care services they receive.

Only two states in the country have reported cultural competency standards for care.

No states in the country have reported foreign language competencies for physicians or dentists.

According to the Dallas Morning News, many immigrants travel to Mexico to receive health care due to the cultural and language barriers they encounter in the United States health care system. According to the San Jose Mercury News, 65 percent of the membership of the largest medical association in California reported that if they were required to pay for medical interpreters, they would stop seeing patients that required interpretation services.



According to the Journal of the American Medical Association, in 1999, one medical school had a separate course covering cultural diversity, 109 medical schools included cultural diversity content as part of a required course or clerkship, and 84 medical schools included information on cultural beliefs or practices related to death or dying in a required course or clerkship.

SEC. 2. Section 853 of the Business and Professions Code is repealed.

SEC. 3. Section 853 is added to the Business and Professions Code, to read:

853. (a) The Licensed Physicians and Dentists from Mexico Pilot Program is hereby created. This program shall allow up to 30 licensed physicians specializing in family practice, internal medicine, pediatrics, and obstetrics and gynecology, and up to 30 licensed dentists from Mexico to practice medicine or dentistry in California for a period not to exceed three years. The program shall also maintain an alternate list of program participants.

(b) The Medical Board of California shall issue three-year nonrenewable licenses to practice medicine to licensed Mexican physicians and the Dental Board of California shall issue three-year nonrenewable permits to practice dentistry to licensed Mexican dentists.

(c) Physicians from Mexico eligible to participate in this program shall comply with the following:

(1) Be licensed, certified or recertified, and in good standing in their medical specialty in Mexico. This certification or recertification shall be performed, as appropriate, by the Consejo Mexicano de Ginecología y Obstetricia, A.C., the Consejo Mexicano de Certificación en Medicina Familiar, A.C., the Consejo Mexicano de Medicina Interna, A.C., or the Consejo Mexicano de Certificación en Pediatría, A.C.

(2) Prior to leaving Mexico, each physician shall have completed the following requirements:

(A) Passed the board review course with a score equivalent to that registered by United States applicants when passing a board review course for the United States certification examination in each of his or her specialty areas and passed an interview examination developed by the National Autonomous University of Mexico (UNAM) for each specialty area. Family practitioners who shall include obstetrics and gynecology in their practice, shall



also be required to have appropriately documented, as specified by United States standards, 50 live births. Mexican obstetricians and gynecologists shall be fellows in good standing of the American College of Obstetricians and Gynecologists.

(B) (i) Satisfactorily completed a six-month orientation program that addressed medical protocol, community clinic history and operations, medical administration, hospital operations and protocol, medical ethics, the California medical delivery system, health maintenance organizations and managed care practices, and pharmacology differences. This orientation program shall be approved by the Medical Board of California to ensure that it contains the requisite subject matter and meets appropriate California law and medical standards where applicable.

(ii) Additionally, Mexican physicians participating in the program shall be required to be enrolled in adult English as a Second Language (ESL) classes that focus on both verbal and written subject matter. Each physician participating in the program shall have transcripts sent to the Medical Board of California from the appropriate Mexican university showing enrollment and satisfactory completion of these classes.

(C) Representatives from the National Autonomous University of Mexico (UNAM) in Mexico and a medical school in good standing or a facility conducting an approved medical residency training program in California shall confer to develop a mutually agreed upon distant learning program for the six-month orientation program required pursuant to subparagraph (B).

(3) Upon satisfactory completion of the requirements in paragraphs (1) and (2), and after having received their three-year nonrenewable medical license, the Mexican physicians shall be required to obtain continuing education pursuant to Section 2190 of the Business and Professions Code. Each physician shall obtain an average of 25 continuing education units per year for a total of 75 units for a full three years of program participation.

(4) Upon satisfactory completion of the requirements in paragraphs (1) and (2), the applicant shall receive a three-year nonrenewable license to work in nonprofit community health centers and shall also be required to participate in a six-month externship at his or her place of employment. This externship shall be undertaken after the participant has received a license and is



able to practice medicine. The externship shall ensure that the participant is complying with the established standards for quality assurance of nonprofit community health centers and medical practices. The externship shall be affiliated with a medical school in good standing in California. Complaints against program participants shall follow the same procedures contained in the Medical Practice Act (Chapter 5 (commencing with Section 2000)).

(5) After arriving in California, Mexican physicians participating in the program shall be required to be enrolled in adult English as a Second Language (ESL) classes at institutions approved by the Bureau of Private Post Secondary and Vocational Education or accredited by the Western Association of Schools and Colleges. These classes shall focus on verbal and written subject matter to assist a physician in obtaining a level of proficiency in English that is commensurate with the level of English spoken at community clinics where he or she will practice. The community clinic employing a physician shall submit documentation confirming approval of an ESL program to the Medical Board of California for verification. Transcripts of satisfactory completion of the ESL classes shall be submitted to the Medical Board of California as proof of compliance with this provision.

(6) (A) Nonprofit community health centers employing Mexican physicians in the program shall be required to have medical quality assurance protocols and either be accredited by the Joint Commission on Accreditation of Health Care Organizations or have protocols similar to those required by the Joint Commission on Accreditation of Health Care Organizations. These protocols shall be submitted to the Medical Board of California prior to the hiring of Mexican physicians.

(B) In addition, after the program participant successfully completes the six-month externship program, a free standing health care organization that has authority to provide medical quality certification, including, but not limited to, health plans, hospitals, and the Integrated Physician Association, shall be responsible for ensuring and overseeing the compliance of nonprofit community health centers medical quality assurance protocols, conducting site visits when necessary, and developing any additional protocols, surveys, or assessment tools to ensure



that quality of care standards through quality assurance protocols are being appropriately followed by physicians participating in the program.

(7) Participating hospitals shall have the authority to establish criteria necessary to allow individuals participating in this three-year pilot program to be granted hospital privileges in their facilities.

(8) The Medical Board of California shall provide oversight review of both the implementation of this program and the evaluation required pursuant to subdivision (j). The Board shall consult with the medical schools applying for funding to implement and evaluate this program, executive and medical directors of nonprofit community health centers wanting to employ program participants, and hospital administrators who will have these participants practicing in their hospital, as it conducts its oversight responsibilities of this program and evaluation. Any funding necessary for the implementation of this program, including the evaluation and oversight functions, shall be secured from nonprofit philanthropic entities. Implementation of this program may not proceed unless appropriate funding is secured from nonprofit philanthropic entities. The Medical Board of California shall report to the Legislature every January during which the program is operational regarding the status of the program and the ability of the program to secure the funding necessary to carry out its required provisions. Notwithstanding Section 11005 of the Government Code, the board may accept funds from nonprofit philanthropic entities. The board shall, upon appropriation in the annual Budget Act, expend funds received from nonprofit philanthropic entities for this program.

(d) (1) Dentists from Mexico eligible to participate in this program shall comply with the following:

(A) Be graduates from the National Autonomous University of Mexico School of Faculty Dentistry (Facultad de Odontologia).

(B) Meet all criteria required for licensure in Mexico that is required and being applied by the National Autonomous University of Mexico School of Faculty Dentistry (Facultad de Odontologia), including, but not limited to:

(i) A minimum grade point average.

(ii) A specified English language comprehension and conversational level.



(iii) Passage of a general examination.

(iv) Passage of an oral interview.

(C) Enroll and complete an orientation program that focuses on the following:

(i) Practical issues in pharmacology which shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(ii) Practical issues and diagnosis in oral pathology which shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(iii) Clinical applications which shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(iii) Biomedical sciences which shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(iv) Clinical history management which shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(v) Special patient care which shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(vi) Sedation techniques which shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(vii) Infection control guidelines which shall be taught by an instructor who is affiliated with a California dental school approved by the Dental Board of California.

(viii) Introduction to health care systems in California.

(ix) Introduction to community clinic operations.

(2) Upon satisfactory completion to a competency level of the requirements in paragraph (1), dentists participating in the program shall be eligible to obtain employment in a nonprofit community health center pursuant to subdivision (f) within the structure of an extramural dental program for a period not to exceed three years.

(3) Dentists participating in the program shall be required to complete the necessary continuing education units required by the Dental Practice Act (Chapter 4 (commencing with Section 1600)).



(4) The program shall accept 30 participating dentists. The program shall also maintain an alternate list of program applicants. If an active program participant leaves the program for any reason, a participating dentist from the alternate list shall be chosen to fill the vacancy. Only active program participants shall be required to complete the orientation program specified in subparagraph (C) of paragraph (1) of this subdivision.

(5) (A) Additionally, an extramural dental facility may be identified, qualified, and approved by the board as an adjunct to, and an extension of, the clinical and laboratory departments of an approved dental school.

(B) As used in this subdivision, “extramural dental facility” includes, but is not limited to, any clinical facility linked to an approved dental school for the purposes of monitoring or overseeing the work of a dentist licensed in Mexico participating in this program and that is employed by an approved dental school for instruction in dentistry which exists outside or beyond the walls, boundaries, or precincts of the primary campus of the approved dental school, and in which dental services are rendered. These facilities shall include nonprofit community health centers.

(C) Dental services provided to the public in these facilities shall constitute a part of the dental education program.

(D) Approved dental schools shall register extramural dental facilities with the board. This registration shall be accompanied by information supplied by the dental school pertaining to faculty supervision, scope of treatment to be rendered, arrangements for postoperative care, the name and location of the facility, the date operations shall commence at the facility, and a description of the equipment and facilities available. This information shall be supplemented with a copy of the agreement between the approved dental school and the affiliated institution establishing the contractual relationship. Any change in the information initially provided to the board shall be communicated to the board.

(6) The program shall also include issues dealing with program operations, and shall be developed in consultation by representatives of community clinics, approved dental schools, and the National Autonomous University of Mexico School of Faculty Dentistry (Facultad de Odontología).

(7) The Dental Board of California shall provide oversight review of the implementation of this program and the evaluation



required pursuant to subdivision (j). The Dental Board shall consult with dental schools in California that have applied for funding to implement and evaluate this program and executive and dental directors of nonprofit community health centers wanting to employ program participants, as it conducts its oversight responsibilities of this program and evaluation. Implementation of this program may not proceed unless appropriate funding is secured from nonprofit philanthropic entities. The Dental Board of California shall report to the Legislature every January during which the program is operational regarding the status of the program and the ability of the program to secure the funding necessary to carry out its required provisions. Notwithstanding Section 11005 of the Government Code, the board may accept funds from nonprofit philanthropic entities.

(e) Nonprofit community health centers that employ participants shall be responsible for ensuring that participants are enrolled in local English-language instruction programs and that the participants attain English-language fluency at a level that would allow the participants to serve the English-speaking patient population when necessary and have the literacy level to communicate with appropriate hospital staff when necessary.

(f) Physicians and dentists from Mexico having met the applicable requirements set forth in subdivisions (c) and (d) shall be placed in a pool of candidates who are eligible to be recruited for employment by nonprofit community health centers in California, including, but not limited to, those located in the Counties of Ventura, Los Angeles, San Bernardino, Imperial, Monterey, San Benito, Sacramento, San Joaquin, Santa Cruz, Yuba, Orange, Colusa, Glenn, Sutter, Kern, Tulare, Fresno, Stanislaus, San Luis Obispo, and San Diego. The Medical Board of California shall ensure that all Mexican physicians participating in this program have satisfactorily met the requirements set forth in subdivision (c) prior to placement at a nonprofit community health center.

(g) Nonprofit community health centers in the counties listed in subdivision (f) shall apply to the Medical Board of California and the Dental Board of California to hire eligible applicants who shall then be required to complete a six-month externship that includes working in the nonprofit community health center and a corresponding hospital. Once enrolled in this externship, and upon



payment of the required fees, the Medical Board of California shall issue a three-year nonrenewable license to practice medicine and the Dental Board of California shall issue a three-year nonrenewable dental special permit to practice dentistry. For purposes of this program, the fee for a three-year nonrenewable license to practice medicine shall be nine hundred dollars (\$900) and the fee for a three-year nonrenewable dental permit shall be five hundred forty-eight dollars (\$548). A licensee or permitholder shall practice only in the nonprofit community health center that offered him or her employment and the corresponding hospital. This three-year nonrenewable license or permit shall be deemed to be a license or permit in good standing pursuant to the provisions of this chapter for the purpose of participation and reimbursement in all federal, state, and local health programs, including managed care organizations and health maintenance organizations.

(h) The three-year nonrenewable license or permit shall terminate upon notice by certified mail, return receipt requested, to the licensee's or permitholder's address of record, if, in the Medical Board of California or Dental Board of California's sole discretion, it has determined that either:

(1) The license or permit was issued by mistake.

(2) A complaint has been received by either board against the licensee or permitholder that warrants terminating the license or permit pending an investigation and resolution of the complaint.

(i) All applicable employment benefits, salary, and policies provided by nonprofit community health centers to their current employees shall be provided to medical and dental practitioners from Mexico participating in this pilot program. This shall include nonprofit community health centers providing malpractice insurance coverage.

(j) Beginning 12 months after this pilot program has commenced, an evaluation of the program shall be undertaken with funds provided from philanthropic foundations. The evaluation shall be conducted jointly by one medical school and one dental school in California and the National Autonomous University of Mexico in consultation with the Medical Board of California and the Dental Board of California. If the evaluation required pursuant to this section does not begin within 15 months after the pilot project has commenced, the evaluation may be



performed by an independent consultant selected by the Director of the Department of Consumer Affairs. This evaluation shall include, but not be limited to, the following issues and concerns:

(1) Quality of care provided by doctors and dentists licensed under this pilot program.

(2) Adaptability of these licensed practitioners to California medical and dental standards.

(3) Impact on working and administrative environment in nonprofit community health centers and impact on interpersonal relations with medical licensed counterparts in health centers.

(4) Response and approval by patients.

(5) Impact on cultural and linguistic services.

(6) Increases in medical encounters provided by participating practitioners to limited English-speaking patient populations and increases in the number of limited English-speaking patients seeking health care services from nonprofit community health centers.

(7) Recommendations on whether the program should be continued, expanded, altered, or terminated.

(8) Progress reports on available data listed shall be provided to the Legislature on achievable time intervals beginning the second year of implementation of this pilot program. An interim final report shall be issued three months before termination of this pilot. A final report shall be submitted to the Legislature at the time of termination of this pilot program on all of the above data. The final report shall reflect and include how other initiatives concerning the development of culturally and linguistically competent medical and dental providers within California and the United States are impacting communities in need of these health care providers.

(k) Costs for administering this pilot program shall be secured from philanthropic entities.

(l) Program applicants shall be responsible for working with the governments of Mexico and the United States in order to obtain the necessary three-year visa required for program participation.

SEC. 4. Section 854 is added to the Business and Professions Code, to read:

854. Criteria for issuing three-year nonrenewable medical licenses and dental permits under this article shall not be utilized at any time as the standard for issuing a license to practice



medicine or a permit to practice dentistry in California on a permanent basis.

SEC. 5. Section 855 is added to the Business and Professions Code, to read:

855. (a) Up to 70 international medical graduates who have passed their United States medical license examination on the first attempt and who have been working in the medical field in the capacity of a medical assistant, a nurse practitioner, a nurse-midwife, a physician assistant, a dental hygienist, or a quality assurance and peer review specialist for not less than three years, shall be selected to participate in a pilot program. Preference shall be given to international medical graduates who are residents of California, have experience working in communities whose language is other than English and whose culture is not from the dominant society, and have a proven level of literacy in the foreign language of a medically underserved community.

(b) If there are not 70 international medical graduates who meet the criteria of subdivision (a), the remaining openings may be filled by participants who have passed the United States medical license examination on two or more attempts, have been working in the medical field in the capacity of a medical assistant, a nurse practitioner, a nurse-midwife, a physician assistant, a dental hygienist, or a quality assurance and peer review specialist for not less than three years, and who pass an additional test to be determined by the medical facility and the medical school participating in the pilot program. Preference shall be given to international medical graduates who are residents of California, have experience working in communities whose language is other than English and whose culture is not from the dominant society, and have a proven level of literacy in the foreign language of a medically underserved community.

(c) An international medical graduate shall not be eligible for this program if he or she has not graduated from a school in good standing that is recognized by the Medical Board of California.

(d) Upon selection for the pilot program, participants may submit an application to the International Medical Graduate Liaison of the Medical Board of California's Division of Licensing, with the appropriate fee, to initiate the medical licensing review process, providing the participant time to



remediate any deficiency during the three-year international medical graduates pilot program.

(e) All program participants shall be required to have the foreign language fluency and the cultural knowledge necessary to serve the non-English-speaking community at the nonprofit community health center where they practice.

(f) The Medical Board of California shall issue an applicant status letter to participating and qualifying international medical graduates.

(g) International medical graduates shall be required to participate and satisfactorily complete a six-month orientation program that will address medical protocol, community clinic history and operations, medical administration, hospital operations and protocol, medical ethics, the California medical delivery system, health maintenance organizations and managed care practices, and pharmacology differences. International medical graduates who have passed the Educational Commission for Foreign Medical Graduates (ECFMG) language exam shall not be required to be enrolled in English language classes. However, if a participating international medical graduate has not passed the ECFMG language exam, he or she shall be enrolled in English language acquisition classes until he or she obtains a level of English language proficiency equivalent to the ECFMG language exam.

(h) (1) Upon satisfactorily completing the orientation program and the one-year residency training program, international medical graduates shall be selected by nonprofit community health centers to work in nonprofit community health centers and disproportionate share hospitals whose service areas include federally designated Health Professional Shortage Areas, Dental Professional Shortage Areas, Medically Underserved Areas, and Medically Underserved Populations for a period not to exceed three years.

(2) There shall be two residency programs operated under the auspices of a medical school in good standing, with one in southern California and one in northern California. These residency programs shall be in family practice, internal medicine, or obstetrics and gynecology.

(3) After successfully completing the one-year residency program, the training institution for the one-year residency



program for international medical graduates may transfer the program participant into an approved residency program.

(i) (1) All program participants shall be required to satisfy the medical curriculum requirements of Section 2089, the clinical instruction requirements of Section 2089.5, and the examination requirements of Section 2170 prior to being admitted into an approved residency program.

(2) Those international medical graduates who are transferred into an approved residency program shall be required to work in nonprofit community health centers or disproportionate share hospitals whose service areas include federally designated Health Professional Shortage Areas, Dental Professional Shortage Areas, Medically Underserved Areas, and Medically Underserved Populations for not less than three years after being fully licensed.

(j) For individuals in this program as specified in this section, the applicant status letter shall be deemed a license in good standing pursuant to the provisions of this article for the purpose of participation and reimbursement in all federal, state, and local health programs, including managed care organizations and health maintenance organizations.

(k) (1) The Director of General Medical Education or an equivalent position in the training institution of the one-year residency program for international medical graduates shall have the authority to make a recommendation to the Medical Board of California for the full medical licensure of an international medical graduate who has successfully completed the one-year residency program if the director believes, based on the performance and competency of international medical graduate, that the international medical graduate should be fully licensed.

(2) After reviewing the recommendation for full licensure from the director, the Medical Board of California shall have the authority to issue a permanent license to practice medicine in this state to the international medical graduate.

(l) If an international medical graduate desires to secure a permanent license to practice medicine from the board, he or she shall, among other things, be required to be admitted into an approved residency program.

(m) The Medical Board of California, in consultation with medical schools located in California, executive and medical directors of nonprofit community health centers, and with hospital



administrators, shall provide oversight review of the implementation of this program. The Medical Board of California shall ensure that funding proposals by appropriate institutions to implement these provisions meet the necessary funding thresholds to fulfill the intent of this program. Implementation of this program shall not proceed unless appropriate funding is secured. The Medical Board of California shall report to the Legislature every January the program is operational regarding the status of the program and the ability of the program to secure the funding necessary to carry out its required provisions.

SEC. 6. The programs in Sections 853 and 855 of the Business and Professions Code shall be implemented only if the necessary amount of nonstate resources are obtained. General Fund moneys shall not be used for these programs.



Approved _____, 2002

Governor

